

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OMAR BATSON,

v.
Plaintiff,
Case Number 17-12214
Honorable David M. Lawson

GENESEE COUNTY SHERIFF'S DEPUTY
HOOVER, LT. LEONA BROECKER, SGT.
KENNAMER, DEPUTY LEONOWICZ,
and GENESEE COUNTY,

Defendants.

**ORDER DISMISSING CLAIMS AGAINST CERTAIN DEFENDANTS AND
DIRECTING CLERK OF COURT TO CORRECT THE ELECTRONIC DOCKET**

On August 13, 2018, after the case was reassigned to the undersigned, the Court held a status conference with counsel for the parties. During that conference the parties indicated that the plaintiff had filed an amended complaint which omitted certain defendants named in the original complaint. The parties also noted that the amended complaint sued two defendants named as "Hoover," but only one person by that name was meant to be a defendant. The parties later stipulated to dismiss with prejudice the plaintiff's claims against defendant "Nathan Hoover," and the Court entered an order based on that stipulation on August 16, 2018. It also appears that, when the amended complaint was filed, the excess parties named in the original complaint were not terminated on the electronic docket, and defendant Genesee County, which was named in the amended complaint, was not added to the electronic docket. Moreover, the nomenclature of certain defendants was altered between the original and amended pleadings. The Court previously directed the parties to file an appropriate stipulation to correct the caption, but they evidently were unable to reach an agreement. Therefore, in order to reconcile the record of the proceedings with the nomenclature of the parties in the amended complaint, the Court will dismiss the claims against

the previously named defendants who were not named in the amended complaint and direct the Clerk of Court to make corrections to the electronic docket as set forth below. The Court also will dismiss as moot the motion for summary judgment filed by former defendant Nathan Hoover, since the plaintiff's claims against that defendant were dismissed with prejudice.

"Generally, amended pleadings supersede original pleadings." *Hayward v. Cleveland Clinic Found.*, 759 F.3d 601, 617 (6th Cir. 2014) (quoting 6 Wright & Miller, Federal Practice and Procedure § 1476 (3d ed.2010) ("Once an amended pleading is interposed, the original pleading no longer performs any function in the case and any subsequent motion made by an opposing party should be directed at the amended pleading.")). Therefore, the plaintiff "may not rely on claims asserted in a former complaint if a subsequent, voluntarily amended complaint does not include those claims." *Ibid.* (citing *Clark v. Johnston*, 413 F. App'x 804, 811-12 (6th Cir. 2011)). Where the plaintiff does not "'clearly indicate that he intended his amended pleading to supplement, rather than supersede, his original pleading,' [the Court should] consider only the amended complaint" in all further proceedings. *Ibid.* (quoting *Clark*, 413 F. App'x at 812).

Accordingly, it is **ORDERED** that the Clerk of Court shall **CORRECT** the electronic docket to replace the reference to defendant "Genesee County Sheriffs Deputy Hoover" with "Genesee County Sheriff's Deputy Hoover."

It is further **ORDERED** that the references to "Genesee County Sheriffs Deputy Lt. Broecker" and "Leona Broecker" shall be replaced with "Lt. Leona Broecker."

It is further **ORDERED** that the reference to "Genesee County Sheriffs Deputy Sgt. Kennamer" shall be replaced with "Sgt. Kennamer."

It is further **ORDERED** that the references to "Genesee County Sheriffs Deputy N. Leonowicz" and "Leonowicz" shall be replaced with "Deputy Leonowicz."

It is further **ORDERED** that the Clerk shall **CORRECT** the electronic docket to add Genesee County as a defendant.

It is further **ORDERED** that the plaintiff's claims against all of the following defendants are **DISMISSED**, and the Clerk of Court shall **CORRECT** the electronic docket to remove all of the following as parties to this matter: Genesee County Sheriffs Deputy Sgt. Eckert, Deputy M. Wing, Deputy M. Holland, Deputy M. Mendez, Deputy J. Salyers, Deputy W. Rogers, Deputy F. Verhelst, Deputy P. Burt, Deputy A. Chene, Deputy J. Shaw, Deputy D. Berlanga, Deputy P. Gillman, Deputy T. Hunter, Deputy Sgt. Preece, Deputy N. Kirby, Deputy Bouchard, Deputy J. Walker, Deputy Gould, Deputy J. Macy, Deputy Taylor, Deputy M. Skinner, Deputy Clayton, Deputy Henry, Deputy N. Rainwater, Deputy Desisto, Deputy Rebidas, Deputy Morgan, Deputy N. Brooks, Deputy D. Smith, Deputy F. Cobbin, Deputy Sgt. Stemper, Deputy Pascal, Deputy J. Thomas, Deputy M. Scott, Deputy T. Winston, Deputy Railing, Deputy Brown, Deputy Fuller, Deputy McIntosh, Deputy C. Smith, Deputy C. Walker, Deputy Honeycutt, Deputy Beagle, Deputy Frazier, Deputy Lasky, Deputy Krieger, Deputy Mims, Deputy Sanchez, Deputy G. Howard, Deputy R. Finn, Deputy G. Zofchak, Deputy L. Mercer, Deputy M. Johnson, Deputy R. Smith, Deputy C. Sheroski, Deputy S. Poole, Deputy R. Mason, Deputy Sgt. Marsh, Deputy Watts, Deputy T. Howard, Deputy Bueche, Deputy M. Scott, Deputy C. Scott, Deputy J. Snow, Deputy Manley, Deputy C. Brock, Deputy C. Boyd, Deputy S. Banks, Deputy J. McWilliams, Deputy M. Zilinski, Deputy A. Herzog, Deputy J. Rice, Dennis M. Lloyd, DO, S. Warner, RN, A. Rodgers, RN, J. Bexton, LPN, S. Stebbins, LPN, L. Cool, RN, Cheryl Wyms, and B. Keaton.

It is further **ORDERED** that the defendant's motion to amend or correct the electronic docket [64] is **DENIED** as moot.

It is further **ORDERED** that the motion for summary judgment by former defendant Nathan Hoover [46] is **DISMISSED** as moot.

It is further **ORDERED** that if the plaintiff's intentions with respect to the nomenclature or disposition of the claims against any of the parties affected by this order are otherwise than as set forth above, then he may file an appropriate motion for further relief **on or before September 12, 2018.**

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Date: September 5, 2018

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 5, 2018.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI